

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

May 18, 2006

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, May 18, 2006, at 1:32 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Harold Warner Jr., Chair; John W. McKay Jr.; Bill Johnson (In @ 1:46); Bob Aldrich; Elizabeth Bishop; M.S. Mitchell; Don Anderson; Denise Sherman (in @ 1:50); Bud Hentzen; Ronald Marnell; Hoyt Hillman; Morris K. Dunlap and Michael Gisick. Darrell Downing, Vice-Chair was not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Scott Dunakey, Associate Planner; David Barber, Advanced Plans Manager and Lisa Estrada, Recording Secretary.

1. Approval of April 20, 2006, MAPC meeting minutes.

MOTION: Approve April 20, 2006 MAPC meeting minutes.

WARNER moved, **HILLMAN** seconded the motion, and it carried (10-0).

❖ **SUBDIVISION ITEMS**

2. Consideration of Subdivision Committee recommendations from the meeting of May 11, 2006.

2-1. SUB 2005-86: Final Plat -- NORTHGATE ADDITION, located north of 53rd Street North and on the west side of Meridian.

NOTE: This unplatted site is located in the County adjoining Wichita's city limits and annexation is required. The site is currently zoned SF-20, Single-Family Residential and will be converted to SF-5, Single-Family Residential upon annexation.

This final plat contains 26 additional lots.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer (main and lateral) and City water to serve the lots being platted. This plat may be included in the petition for the City sewer main project currently under construction.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **City Engineering has approved the drainage plan subject to conditions being met prior to City Council review. The ditch to Meridian should be located in Reserve C or an off-site drainage easement provided. The reserve/easement should be widened to allow for a minimum of 10 feet flat section on both sides of the ditch. A drainage easement should be provided between lots 40 & 41, Block C; and on a portion of lot 31, Block C as shown on the drainage plan.**
- D. An onsite benchmark is needed.
- E. Reserve J needs to be relocated to the west to clear the 60' right-of-way.
- F. The plat's text shall state that "The owners of the reserves shall bear the cost of any repair or replacement of improvements within said reserves resulting from street construction, repair, or maintenance."
- G. **County Engineering** recommends coordinating Wal-Mart site, Northgate Addition, and Johnson Commercial Centre to guarantee that all plats are in place or offsite easements are provided to allow construction of regional drainage plan. **City Engineering** agrees with the County to have Northgate Addition, Wal-Mart Site and Johnson Commercial Addition work together to guarantee a regional drainage solution.
- H. The Reserves located in road right-of-way need dimensions.
- I. Although labeled as 58 feet, Edwards Court serving Lots 21-25, Block D appears to be 64' wide.
- J. **County/Traffic Engineering** needs to comment on the need for any improvements to perimeter streets. **No improvements are needed.**
- K. **Traffic Engineering** needs to comment on the access controls. The plat proposes two street openings along Meridian. **Access controls are approved.**

- L. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- M. Since Reserve B includes a swimming pool, a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. Otherwise a conditional use and public hearing will be needed in the future. The design for the pool must be submitted to **Environmental Services** for review prior to issuing a building permit for the pool.
- N. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- O. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- P. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- Q. **GIS** needs to comment on the plat's street names. **The cul-de-sac at the northwest corner of the plat needs to be labeled as "58th Ct N"**.
- R. A dedication of street right-of-way for a turnaround is needed at the north line of the plat for N. Richmond Avenue.
- S. The label "K-96 Highway" should be deleted from the face of the plat.
- T. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- U. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- V. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- W. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- X. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Y. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Z. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- AA. Perimeter closure computations shall be submitted with the final plat tracing.
- BB. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- CC. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- DD. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

NEIL STRAHL Planning staff presented the staff report.

MITCHELL Felt that the Planning Commission was being bypassed on the opportunity to make informed decisions in order to make the drainage system work as a public drainage system. Mr. Mitchell would like to see this case deferred to S/D next Thursday to provide staff of the City of Wichita and the County Engineering Department the opportunity to provide updated material on what has been accomplished, and how they propose to get the route completed. If this plat is approved before the entire system has been built, we will have a major problem.

STRAHL Commented that the city engineer was unable to attend but that the drainage plan was approved subject to conditions being met.

CHRIS ROSE Baughman Company, agent requested that the item not be deferred. We have worked with the City and the County, and have agreed to set up a drainage study for the long range.

ALDRICH Asked if there was a finalized plan.

ROSE We have one for Northgate Addition itself. We have not developed the property to the south of 53rd, however we are still working on it.

MARNELL Asked if drainage was being retained or detained, or is this making it worse?

MITCHELL Felt that the pond was designed to take care of the runoff just for this subdivision plat. The 1,100 acres up stream has no effect on it. They would have to carry their plan on through to the area on the south.

MARNELL Advised that in the past, they had not made people responsible for others' drainage, but they need to be responsible for the additional drainage created by the development on land that is before us.

MITCHELL Stated that if there was a natural drainage system that conveyed the existing runoff, the answer would be yes, and in this particular instance there is not. There is almost no drainage channel; there are considerable differences between this and the normal drainage situation.

MARNELL Felt that this particular applicant was not responsible for the action or lack of action of others.

MITCHELL Suggested that the City or the County would have to take some action to ensure that an outlet was available for this drainage.

BISHOP Was concerned that Item G showed a larger picture that needs to be addressed for the whole area, with possible infrastructure factors that needed to be considered, and should be looked at together, if possible, instead of piecemealed.

ALDRICH Agreed that all item recommendations should be taken care of.

DUNLAP Questioned if we don't have anybody to send it back to other than the people we already have.

BISHOP Felt that we needed to know how they propose to resolve the issues that Mr. Mitchell has pointed out. If it says to direct them with Wal-Mart, Johnson Commercial and so forth, something further needs to be addressed to say, here is what can be done. There will be a problem for those homeowners, and we have the responsibility to look out for the consumers of this addition.

DUNLAP Did not want to send it back to Subdivision when it had already been reviewed by them.

BISHOP Said that it shouldn't be passed by Subdivision.

MITCHELL Said the City and County Engineering staff approved a plan that has been talked about, and discussed how guarantees will be obtained to accomplish this task. We will then have something that we can assure people that this plat has its level of service that it needs or deserves.

MOTION: To defer back to Subdivision Committee.

MITCHELL moved, **BISHOP** seconded the motion, and it carried (8-2). **DUNLAP** and **MARNELL** opposed.

2-2. SUB 2006-43: One-Step Final Plat -- E.S. DEVELOPMENT MIDWEST COMMERCIAL ADDITION, located north of 21st Street North and on the east side of Maize Road.

NOTE: This is a replat of the Agape Addition. The site has been approved for a zone change (ZON 2005-54) from SF-5, Single-Family Residential to LC, Limited Commercial. The E.S. Development Midwest Commercial Community Unit Plan (CUP 2005-72, DP-293) was also approved for this site.

STAFF COMMENTS:

- A. Municipal services are available.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

- C. **City Engineering** needs to comment on the status of the applicant's drainage plan.
- D. The CUP approval limited access to one full movement and one right-in/right-out opening. The plat denotes two openings, which need to be labeled accordingly.
- E. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- F. The joint access easement with the property to the south shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- G. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- H. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- I. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: Approve per staff recommendation.

HILLMAN moved, **DUNLAP** seconded the motion, and it carried (10-0).

2-3. SUB 2006-38: One-Step Final Plat -- OAK CREEK 2ND ADDITION, located south of 21st Street North and on the west side of Greenwich Road.

NOTE: The site has been approved for a zone change (ZON 2004-14) from SF-5, Single-Family Residential to LC, Limited Commercial and GO, General Office. The Oak Creek Community Unit Plan (CUP 2004-09, DP-274) was also approved for this site. The site is located within the 100-year floodplain.

The applicant proposes a zone change of Lots 1-18, Block 2 from LC, Limited Commercial to SF-5, Single-Family Residential.

This is a replat of a portion of the Oak Creek Addition. 18 additional lots have been proposed in addition to a realignment of Chateau Parkway and a new private street.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted. A water project (private project) has already been approved and is under construction
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **Prior to City Council review, City Engineering requests submittal of a comprehensive drainage plan, which includes the remainder of the original plat. The retention area is to be constructed in a drainage Reserve and shown on the plat. The 30-foot drainage and utility easement should be extended across lot 7, Block 1. A 20' Drainage easement should be shown on the plat along the west property line and north property line. It appears the 20' drainage easement needs to be widened from Pond #5's outfall to Pond #3. Additional easement may be necessary along the south property line to provide a flat 10-foot section for access.**
- D. In accordance with the CUP, the applicant shall provide a guarantee for a continuous accel/decel lane on 21st St. North. **This petition has been provided.**
- E. In accordance with the CUP approval and original plat, the plat proposes two street openings along 21st St. North and one street opening along Greenwich.
- F. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- G. The Applicant shall guarantee the paving of the proposed streets. For Reserve B being platted for private streets, improvements shall be guaranteed for construction to a public street standard; however as private improvements, guarantees cannot be provided through the use of petitions.
- H. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- J. In lieu of increasing the width of 19th Street North and Chateau Parkway, a restrictive covenant will be provided restricting the streets to "No Parking".
- K. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- L. A covenant shall be submitted regarding the private street (Reserve B), which sets forth ownership and maintenance responsibilities. The plat's text shall reference the platting of the reserve for private street purposes and shall state which specific lots are to be accessed by the reserve.
- M. Reserve B being platted as a private street shall be labeled as a private street and shown appropriate street names.
- N. If any of the intended recreational uses for the reserves includes a swimming pool, "neighborhood swimming pool" shall be specified in the plat's text and a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. Otherwise a conditional use and public hearing will be needed in the future. If there is a swimming pool to be built, the design for the pool must be submitted to **Environmental Services** for review prior to issuing a building permit for the pool.
- O. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- P. **GIS** needs to comment on the plat's street names. **GIS has requested street names for the private streets.**
- Q. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- R. The recording information for all pipeline easements shall be indicated on the face of the plat.
- S. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- T. Block 2 should be divided into three separate blocks, as the perimeter of the blocks should be bounded by streets.

- U. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- V. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- W. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- X. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Y. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Z. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- AA. Perimeter closure computations shall be submitted with the final plat tracing.
- BB. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- CC. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy has requested additional easements.
- DD. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

JOHNSON ARRIVED

MITCHELL Again it's Item C. I have talked to the storm water engineer. He is of the opinion that a permit to do the major channel change needs to be proposed by this final plat. The application has not been made and the applicant's engineering firm is not sure they need to. This also needs to go back to Subdivision to clarify that issue. This may take months to accomplish.

WARNER Wanted to know if they could do anything without it.

MITCHELL Said if he is correct then the answer is they can't legally make the changes they are proposing without the permit.

ROB HARTMAN Professional Engineering Consultants on behalf of the applicant advised that this was a re-plat of the Oak Creek Addition, and the drainage plan was approved over a year ago. The portion that is being re-platted is west of the channel that carries all the water through the property.

MITCHELL Asked, "then the channelization is not on the re-plat."

HARTMAN No.

MITCHELL "I am in error, I misunderstood."

MOTION: Approve per staff recommendation.

DUNLAP moved, **MITCHELL** seconded the motion, and it carried (11-0).

2-4. SUB 2006-42: One-Step Final Plat -- ANGELL ESTATES ADDITION, located on the south side of 77th Street North and west of Oliver.

NOTE: This site is located in the County within three miles of Wichita's boundary. It is located in an area designated as " Small City 2030 Urban Growth Area" by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Kechi Area of Influence.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact County Code Enforcement to find out

what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.

- B. The site is currently located within the Sedgwick County Rural Water District No. 2. If service is available, feasible and the property is eligible for service, **County Code Enforcement** recommends connection.
- C. In accordance with the Urban Fringe Development policy, since this plat is located within the Kechi 2030 Urban Growth Area, the subdivider shall contact the City of Kechi, to determine the financial feasibility of connecting the proposed subdivision to the city water system. If financially feasible, then the subdivision shall be connected to the city's water system in accordance with that city's standards.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. **County Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage plan is needed and should calculate high water elevations on lots for purposes of setting minimum pad elevations. Location of emergency spillways of offsite pond need to be located and applicant needs to determine if additional easements on Lot 2 are needed to carry overflow. Drainage easements should be shown as floodway reserves.**
- F. An onsite benchmark is needed.
- G. **County Engineering** has requested the dedication of access controls along 77th St. North. Lots 1 & 2 should share an entrance. Lot 3 should have a joint entrance on the west.
- H. **Sedgwick County Fire Department** advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- I. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- S. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: Approve per staff recommendation.

HILLMAN moved, **DUNLAP** seconded the motion, and it carried (10-0).

2-5. SUB 2006-18: One-Step Final Plat -- WESTPORT SECOND ADDITION, located west of Tyler Road and on the north side of Kellogg.

NOTE: This is a replat of portions of the Westport Addition and Davis Moore 12th Addition which includes a vacation of Westfield and Keith street rights-of-way. A portion of the site has been approved for a zone change (ZON 2005-52) from LC, Limited Commercial to GC, General Commercial subject to replatting. A Protective Overlay (P-O #167) was also approved for this site addressing uses, landscape and parking lot screening, setbacks, signs, architectural controls, outside storage, and building height.

STAFF COMMENTS:

- A. The final plat tracing shall be submitted with a revised name, as an Addition now within Wichita exists with the name "Westport 2nd Addition".
- B. Sanitary sewer services are available to serve the site. The applicant shall guarantee the extension of City water to serve the lots between Westfield & Byron.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan was approved subject to conditions.**
- E. Complete access control needs to be platted along Dubon. The final plat shall reference the dedication of access controls in the plat's text.
- F. The Applicant shall guarantee the future paving of the south half of Dubon.
- G. The standard language regarding vacation statutes need to be referenced.
- H. The signature line for the City Clerk needs to be revised to reference "Karen Sublett".
- I. The MAPC signature block needs to reference "Harold L. Warner, Jr., Chair".
- J. The year "2006" needs to replace "2005" within the signature blocks.
- K. **GIS** has requested type labels for the adjoining streets (Byron Rd, Dubon Ave, Keith Ave, Westfield Ave, Seville Ave).
- L. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- M. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within 30 days after approval by the City Council and/or County Commission.

- U. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- V. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: Approve per staff recommendation.

HILLMAN moved, **DUNLAP** seconded the motion, and it carried (10-0).

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- 2-6. **SUB 2006-44: One-Step Final Plat -- PARADISE ACRES ADDITION**, located on the north side of 31st Street South and east of Greenwich Road.

NOTE: This site is located in the County within three miles of Wichita's boundary. It is located in an area designated as "Wichita 2030 Urban Growth Area" by the Wichita-Sedgwick County Comprehensive Plan.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. The site is currently located within the Sedgwick County Rural Water District No. 3. If service is available, feasible and the property is eligible for service, County Code Enforcement recommends connection.
- C. In accordance with the Urban Fringe Development Standards, the subdivider shall contact the City of Wichita to determine the financial feasibility of connecting the proposed subdivision to the city water system. If financially feasible, the subdivision shall be connected to Wichita's water system in accordance with City of Wichita standards.
- D. City of Wichita Water and Sewer Department requests a petition for future extension of City water and sanitary sewer (main and lateral).
- E. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- F. County Engineering needs to comment on the status of the applicant's drainage plan. *The drainage plan has been approved.*
- G. The preliminary plat should show adjacent owners.
- H. County Engineering recommends a 35-foot contingent street dedication on the west side of plat. On the final plat tracing, the contingent dedication of right-of-way needs to be referenced in the plat's text. The language should state that "the contingent street dedication is hereby contingently dedicated as street right-of-way to become effective upon the platting of any adjacent subdivision having a street connecting thereto. The costs of constructing said street, are to be borne by the person(s) or agency that owns said adjacent subdivision."
- I. County Engineering needs to comment on the access controls. The plat denotes one opening along 31st St. South. *County Engineering recommends placement of an access point at the west side of plat.*
- J. Sedgwick County Fire Department advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- K. The City Council certification needs to be revised to reference Carlos Mayans, Mayor.
- L. The signature line for the City Clerk needs to be revised to reference "Karen Sublett".
- M. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet

with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- W. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: Approve per staff recommendation.

HILLMAN moved, **DUNLAP** seconded the motion, and it carried (10-0).

❖ **PUBLIC HEARINGS – VACATION ITEMS**

3-1. VAC 2006-22: Request to Vacate a Platted Setback

<u>APPLICANTS/OWNERS:</u>	Dover Cliff Kellogg, LLC, c/o Emery W Shane
<u>AGENT:</u>	KE Miller Engineering, PA c/o Kirk Miller
<u>LEGAL DESCRIPTION:</u>	The platted 30-foot interior side yard setback, that runs parallel to the east lot line of Lot 1, Clinton Addition, Wichita, Sedgwick County, Kansas.
<u>LOCATION:</u>	Generally located on the north side of Kellogg Drive and midway between Dugan Road & Ridge Road (WCC #V)
<u>REASON FOR REQUEST:</u>	Additional room for development of vacant lot
<u>CURRENT ZONING:</u>	Site and abutting eastern property are zoned "LC" Limited Commercial. Northern and western abutting properties are zoned "GC" General Commercial. Abutting southern property is public street right-of-way (ROW).

The applicant proposes to vacate the platted 30-foot interior side yard setback, as described. The "LC" zoning district does not require an interior side yard setback, but if one is provided it is a minimum of 5-feet. There is a platted 10-foot wide utility easement within the platted interior side yard setback. There is a sewer line and manholes in the north portion of the platted easement. Water is in the Kellogg Drive ROW. There are no franchised utilities in the setback. The Clinton Addition was recorded with the Register of Deeds December 16, 1968.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval of the vacation of the platted 30-foot interior side yard setback, as described and with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 - 1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time April 27, 2006 which was at least 20 days prior to this public hearing.
 - 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted interior side yard setback and the public will suffer no loss or inconvenience thereby.
 - 3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the portion of the platted 30-foot front yard setback, described in the petition should be approved with conditions:

- (1) Retain the platted 10-foot wide utility easement.
- (2) The platted 40-foot front setback will be extended to the east lot line of Lot 1, Clinton Addition.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
- (4) All improvements shall be according to City standards and at the applicant's expense.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Retain the platted 10-foot wide utility easement.
- (2) The platted 40-foot front setback will be extended to the east lot line of Lot 1, Clinton Addition.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
- (4) All improvements shall be according to City standards and at the applicant's expense.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: Approved per staff recommendations.

ALDRICH moved, **ANDERSON** seconded the motion, and it carried (12-0).

3-2. VAC 2006-23: Request to Vacate Portions of a Platted Easement

APPLICANTS/OWNER: Jim Goentzel Construction c/o Jeff Bennett

AGENT: Baughman Co, PA c/o Phil Myer

LEGAL DESCRIPTION: The west 10-foot wide portion of the platted 20-foot drainage easement, that abuts the east side of Lot 20, Block B, the Willowbend North Estates 2nd Addition, as recorded with Wichita, Sedgwick County, Kansas

LOCATION: Generally located south of 45th Street North, midway between of Rock Road and Woodlawn Boulevard, northeast of Shadow Glenn and Burton Creek

REASON FOR REQUEST: Additional room for single-family residential development

CURRENT ZONING: Site and surrounding properties are zoned "SF-5" Single-family residential

The applicant is requesting consideration to vacate the west 10-foot wide portion of the platted 20-foot drainage easement, as described. There are no franchised utilities, manholes, sewer or water lines in the platted easement. The easement abuts a golf course on its east side. The Willowbend North Estates 2nd Addition was recorded with the Register of Deeds January 8, 2004.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate a western foot portion of the platted 20-foot drainage easement, as described, with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time April 27, 2006 which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted drainage easement and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the portion of the platted 20-foot easement, as described in the petition should be approved with conditions:

1. The utility and drainage easement will be retained until the Storm Water Engineer, Public Works and franchised utilities have determined if any or all of the utility and drainage easement can be vacated. Provide Storm Water with required drainage plans and, if needed, any legal description if different than what was originally requested.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide any needed replacement easements.
3. All improvements shall be according to City Standards and at the applicant's expense.
4. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- 1) The utility and drainage easement will be retained until the Storm Water Engineer, Public Works and franchised utilities have determined if any or all of the utility and drainage easement can be vacated. Provide Storm Water with required drainage plans.
- 2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide any needed replacement easements.
- 3) All improvements shall be according to City Standards and at the applicant's expense.
- 4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: Approved per staff recommendations.

ALDRICH moved, **ANDERSON** seconded the motion, and it carried (12-0).

3-3. VAC 2006-24: Request to Vacate a Portion of a Platted Easement

APPLICANTS/OWNERS: Greg Allison

AGENT: MKEC Engineering Consultants, Inc.

LEGAL DESCRIPTION: Generally described (see exhibit) as 10-feet of the platted 20-foot drainage and utility easement, as recorded located between Lots 141 & 142, Block 1, Fox Ridge Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located northwest of the Tyler Road – 29th Street North intersection, north of Westlakes Parkway, on the east side of Den Hollow Circle (WWC #V)

REASON FOR REQUEST: Existing encroachment and proposed encroachment

CURRENT ZONING: Site and all abutting and adjacent properties are zoned "SF-5" Single-family Residential.

The applicant is requesting consideration to vacate 5-feet of the platted 20-foot drainage and utility easement, from both Lots 141 & 142, Block 1, Fox Ridge Addition: a total of 10-feet of the platted 20-foot easement. There are no water or sewer lines or manholes in the platted easement. Storm Water will need to confirm the drainage function of the easement. Westar has equipment in the easement. The Fox Ridge Addition was recorded with the Register of Deeds July 8, 2003.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted utility and drainage easement as described in the attached legal, with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
- 1) That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time April 27, 2006, which was at least 20 days prior to this public hearing.
 - 2) That no private rights will be injured or endangered by the vacation of the above-described platted utility and drainage easement and the public will suffer no loss or inconvenience thereby.
 - 3) In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the platted drainage easement described in the petition should be approved with conditions:
- 1) Westar has equipment in the easement. Retain that portion of the easement as required by Westar. Send Planning, via e-mail, a legal description of the vacated portion of the easement, as agreed by Westar.
 - 2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide any needed replacement easements.
 - 3) All improvements shall be according to City Standards and at the applicant's expense.
 - 4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions;

- 1) Westar has equipment in the easement. Retain that portion of the easement as required by Westar. Send Planning, via e-mail, a legal description of the vacated portion of the easement, as agreed by Westar.
- 2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide any needed replacement easements.
- 3) All improvements shall be according to City Standards and at the applicant's expense.
- 4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: Approved per staff recommendations.

ALDRICH moved, **ANDERSON** seconded the motion, and it carried (12-0).

❖ PUBLIC HEARINGS

4. Case No.: DR2005-32 - Request Amendments to the Unified Zoning Code Pertaining to Manufactured Home Parks
MAPC deferred March 16, 2006 and May 4, 2006

DR 2005-32, Amendments to the Unified Zoning Code Pertaining to Manufactured Home Parks.

KNEBEL planning staff presented report. On May 4, the Commission held the second hearing and voted to defer it back to the Advance Plans Committee. That meeting occurred on May 11, and those members were to report the findings discovered through that hearing. We have not proposed any changes to the regulations since the hearing that occurred on May 4.

DUNLAP advised that the Advance Plans Committee meet a week ago, and as a result of that meeting, they did not make a recommendation. A discussion occurred between neighbors, input came from park owners, association members, the City of Wichita Legal Department, County staff, and Central Inspection. Of the three Advance Plans members who attended this meeting, we elected to allow it to come back before this body without a recommendation. Staff made no changes at that meeting.

WARNER advised that the public hearing was open, and the chair ruled that the commission will hear testimony from those who have not had the opportunity to speak or who have new information.

MARTHA SMITH 3521 S West 5th, Topeka KS, asked why Code Enforcement had not enforced the current ordinance. A reply given at that meeting was that the current ordinance did not give the authority needed. However, the provisions that are in the proposal would help them, and we agreed with those proposals. The only item we disagreed on was the screening requirements. We agree with the remainder of both proposed ordinances.

MARNELL mentioned that he asked if anybody present wanted to indicate harm from the screening requirements and no one came forward.

SMITH advised that two park owners were present and felt the screening would impact their existing park. One spoke, and was corrected and was informed by the City that they would not be impacted. The other owner chose not to speak. We are opposed to a screening requirement that is just for manufactured housing. If the screening provision was applied uniformly to all forms of housing, we would be supportive. But to be singled out, because of the concerns mentioned like vagrancy, drugs, etc., those are not problems seen in just manufactured housing.

BISHOP stated that part of the proposed change is the process in asking for a waiver, and wanted to know what Ms. Smith thought of the process for that small minority of individuals that would be impacted and why it would be a hardship and ask for a waiver.

SMITH felt that it does provide due process for them to get the evaluation and asking for the waiver. She believed even if the waiver was turned down they would still have the appeals process. While it is helpful, to be singled out for screening when no other form of housing is being singled out, we feel that is not fair.

MIKE HERRING 2510 Valley Park, felt that some of the complaints were from individuals who do not belong to the Kansas Manufactured Housing Association and did not understand why they were complaining. Slides were present of good mobile home parks that have storm shelters, play yards, concrete pads to park the mobile homes on, off the street by 100 yards, have covered garages, are well established. What is needed for this type of park is a stringent permit requirement with laws that say it must be done within a certain period or it will cost them a fortune.

MITCHELL wanted to know where the screening requirement came from, and where the discussion came from on rewriting the ordinances.

KNEBEL advised that the screening requirement is not proposed to be changed in terms of the side and rear lot-screening requirement. What we are proposing is that the existing requirement, which was placed in the code in 1997, that all parks be required to come into compliance with that code regardless of if they were developed before or after 1997, when the code was put in place. That particular screening requirement was established for all non-duplex or single-family housing. It is a screening requirement that applies to multi-family zones and to the manufactured housing zones. This has been in effect for 9 years, since 1997. It is enforceable on properties that were developed after 1997. What is being proposed that in order to receive a license for a manufactured home park in the City of Wichita you would have to come into compliance with the code you normally would not have to comply with.

DUNLAP asked for comments from Joe Lang, City Attorney and Aaron Blase, Assistant County Counselor.

JOE LANG responded, no comments from the City.

DUNLAP asked Mr. Blase if there is a consideration by the County to look at some sort of licensing program that matched what the city has done.

AARON BLASE advised that it was under discussion.

BISHOP mentioned that she has learned a lot as this is further discussed. At the Advance Plans Committee meeting, we discussed that by adding requirements to be in compliance with the housing and zoning codes and tying it to renewal on the application for a license, that it what would give the City the teeth it needed to enforce. The only piece that appears to still be objected to is the screening. Ms. Bishop stated that, in her opinion, it was not a discriminatory item for mobile home parks. Mobile home parks are unique in terms of their structure and the way they are put together, as is multi-family. The screening is required, if understood correctly, for multi-family and anything less than duplex. I do believe there is a solid process for a waiver, and if for some reason the waiver is not agreed too, then it is possible to take it to the Board of Zoning Appeals, which will cover those few projects/operations that will have an impact from having to come into compliance with the current zoning code that has existed since 1997.

ALDRICH asked how would a license give the authority to the Office of Central Inspection to do what they are suppose to be doing. Mr. Aldrich felt that whatever is needed to make it easier so that agencies can ensure we have clean neighborhoods, regardless of where you live, that enforcement is there, and the penalties should be upheld by the courts.

DUNLAP shared that passing an ordinance that causes a licensee when he goes for renewal to do something he didn't have to do before would be an unreasonable thing. I don't think that is a good thing. I do not agree with screening one particular housing from another. We do need to recognize that are a couple of differences. Mobile homes and manufactured housing are two different categories. Manufactured housing has codes that were applied when the usage of the term came into being. They are not mobile homes. Manufactured housing can be a house built in a factory and put on a foundation. To include manufactured housing overall does not work. We learned that the City Law Department felt the problem was that they could not identify whom to approach, the property owner who may or may not own the mobile home or manufactured house depending on the age, or if it was the person who owns the mobile home/manufactured house, but may or may not be occupying it, or if it is the person occupying it and is putting chairs out to street level. The law department wanted to approach this and say it is the license holder, and that is the property owner. I don't have a problem with that at all. I think that the Law Department didn't need us to handle this, but that the City Council

has asked the screening and the licensing be presented in a combined package. I don't feel this is the right thing to do. I don't agree with the screening. I do agree with the licensing.

MARNELL mentioned that he intended to vote in favor of the proposed amendments.

MITCHELL is not supportive of the proposed changes because there is no grandfather clause and he felt that the waiver provision did not accomplish it.

DUNLAP motioned to adopt with the proposal with the exception of the screening portion that changes from what it has been, referring to Item I on page 25.

HILLMAN seconded the motion.

KNEBEL, mentioned that if item I was removed that the waiver requirement would no longer be necessary since they would not have anything to wave. The waiver requirement on Section 8, Page 4.

DUNLAP that is correct. I add that to my motion.

HILLMAN the second concurs.

BISHOP asked about the memo dated April 20. She wanted to know what the motion changed from that memo.

KNEBEL replied that you would be removing sections that were changed. As he understood the motion, the motion is that on Attachment 1, on page 25, Section I would be removed, and on Attachment 2, on Page 4, Section 8 would be removed.

BISHOP asked if the motion was to remove the screening even though the waiver process was proposed.

KNEBEL advised that Section I on page 25, would require existing manufactured home parks with two or more spaces to comply with the current screening requirements of the zoning code regardless of it was the screening requirement when they were originally developed or not.

BISHOP suggested that it would be simpler to change the proposed amendments to allow the grandfathering to continue where screening is concerned.

KNEBEL said that the code, as it is written today, required that any park developed after 1997 comply with the screening that was adopted at that time. If you opened a new park today, you would be required to meet the screening requirements.

MITCHELL asked where the waiver provision was located.

KNEBEL replied Attachment 2, Page 3 and 4, Section 8, at the bottom of Page 3 and continues to the top of Page 4. This would allow an adjustment to reduce or waive the screening, but that if the motion were passed the way it was made, it would not be required.

DUNLAP asked if the motion he offered passes, would the ability of Central Inspection or Law Department to license be reduced.

KNEBEL said no the licensing would be increased.

MOTION: To approve as proposed with the elimination of Item I, Page 25, Attachment 1, and Section 8, Page 3 and 4, Attachment 1.

OPPOSED: **BISHOP and ALDRICH**, and it carried (10-2).

Change tape side B

BISHOP asked staff why there was no DAB(s) meeting on 5, 6 and 7.

DUNAKEY replied there was a timing issue; the nearest DAB meeting was not until next month.

5. **Case No.: ZON2006-22 and CON2006-20** – Bledsoe Enterprises, Inc., c/o Hap Bledsoe (owner); Quik Trip Corporation (applicant) Request Conditional Use request to allow a car wash and zone change from "SF-5" Single-family Residential to "LC" Limited Commercial on property described as;

The west 145 feet of the following described tract: A tract in the SW 1/4 of Sec. 29, Twp 27-S, R-1-W of the 6th P.M. Sedgwick County, Kansas, described as commencing at the southeast corner of Lot 18, Verda Vista, Sedgwick County, Kansas; thence on an assumed bearing of N01 degrees 18'15"W, along the east line of said Verda Vista, a distance of 207.09 feet more or less, to a point 24.99 feet north of the southeast corner of Lot 16, in said Verda Vista, said point being a point on the south line of Lot 1, Block A, Quik Trip 8th Addition, Wichita Sedgwick County, Kansas; thence N77 degrees 23'30"E, 95.86 feet to the southeast corner of said Lot 1 for a point of beginning; thence continuing N77 degrees 23'30"E, 82.07 feet; thence N83 degrees 48'36"E, 81.62 feet; thence N76 degrees 04'33"E, 210.70 feet; thence N71 degrees 15'54"E, 324.50 feet; thence N15 degrees 58'34"W, 77.40 feet more or less to a point on the north line of a tract as described on the deed filed of record in the

Sedgwick County Register of Deeds Office at Film 424, Page 238; thence west along the north line of said tract, being parallel with the south line of said SW 1/4, 461.08 feet more or less to a point 560 feet east of the west line of said SW 1/4; thence north parallel with the west line of said SW 1/4, 21.17 feet; thence west 196 feet to the northeast corner of said Lot 1, Block A, Quik Trip 8th Addition; thence southerly 256.82 feet more or less to the point of beginning. Generally located North of Kellogg Drive and east of Maize Road

BACKGROUND: The applicant is requesting a zone change from SF-5 Single-family Residential to LC Limited Commercial and a conditional use to allow a car wash to be located within 200 feet of residential zoning in the LC Limited Commercial zoning district. The 0.81-acre site is located on the northeast corner of the intersection of Maize Road and Kellogg Drive. All but the north 43 feet of the site, which is zoned SF-5 Single-family Residential, is currently zoned LC Limited Commercial. The entire subject parcel is currently vacant. Quik Trip Corporation, owner of the property immediately west of the subject property, is proposing the car wash as an ancillary use to their existing convenience store.

A mix of commercial and residential zoning and land uses exists on both sides of the Maize Road/Kellogg Drive intersection. The commercial zoning and uses are concentrated on the road frontages, while single-family residential zoning and uses exist northwest and northeast of this commercial node. The SF-5 zoning continues about 2,100 feet east of the site to Seville Avenue, where the highway frontage transitions back to commercial. Given the recent improvements to Kellogg Drive/US 54, it would be expected that the area east of the site would begin being developed with commercial uses consistent with the Functional Land Use Guide of the Comprehensive Plan. South of the site is the Kellogg Drive/US 54 right-of-way. A single-family residence zoned SF-5 abuts the site to the north.

CASE HISTORY: The site is unplatted. The southern portion of the lot was zoned from R Rural Residential to LC Limited Commercial by Sedgwick County March 28, 1958. There is no other known case history.

ADJACENT ZONING AND LAND USE:

NORTH	SF-5 Single-family	Single-family residential
SOUTH:	NA	Kellogg/US 54 right-of-way
EAST:	SF-5 Single-family	Vacant; Accessory structure
WEST:	LC Limited Commercial	Convenience store

PUBLIC SERVICES: Although the site has frontage on Kellogg Drive, there will be no direct ingress/egress. Rather, the site access is configured through the QT convenience store immediately west of the site, which has direct access to both Maize Road and Kellogg Drive. Kellogg Drive is the frontage road for US 54, which has a traffic count of approximately 31,000 vehicles per day. Maize Road, a four-lane principal arterial plus turning lanes, has a traffic count of approximately 15,000 vehicles daily. The site is currently not served with municipal water and sewer services. However, utilities will need to be extended through the required platting process.

CONFORMANCE TO PLANS/POLICIES: Functional Land Use Guide of the Comprehensive Plan identifies this property as appropriate for local commercial development. The Comprehensive Plan does not specifically address car washes. However, the Commercial Locational Guidelines recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. As recommended for approval, the request conforms to the Land Use Guide and Commercial Locational Guidelines of the Comprehensive Plan.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request for the conditional use and the zoning change be APPROVED, subject to platting within one year and the following conditions:

- A. The site shall be developed according to the site plan and maintained in compliance with all the requirements of Section III-D.6.f of the UZC regarding supplementary use regulations for car washes. All improvements shall be completed before the facility becomes operational.
- B. The site shall comply with all provisions of Section IV-C of the UZC, pertaining to compatibility standards.
- C. The site shall comply with all provisions of the Landscape Ordinance and the applicant shall submit a landscape plan for approval by the Planning Director.
- D. After a review of the development and upon appropriate findings, any violation of the conditions of approval will allow the conditional use to be declared null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: A mix of commercial and residential zoning and land uses exists on both sides of the Maize Road/Kellogg Drive intersection. The commercial zoning and uses are concentrated on the road frontages, while single-family residential zoning and uses exist northwest and northeast of the commercial nodes. The SF-5 zoning continues about 2,100 feet east of the site to Seville Avenue, where the highway frontage transitions back to commercial. South of the site is the Kellogg Drive/US 54 right-of-way. A single-family residence zoned SF-5 abuts the site to the north.
2. The suitability of the subject property for the uses to which it has been restricted: Most of the site is zoned LC Limited Commercial, which accommodates office, retail, commercial and complementary land use. Given the site's location with arterial frontage and the retail /commercial character of the area it could be developed for retail, office, commercial or complementary land uses. The rezoning of the SF-5 lots to LC would facilitate redevelopment of the site.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The screening, lighting and compatibility standards of the UZC and provisions of the Landscape Ordinance should limit noise, lighting, and other activity from adversely impacting abutting residential zoning and developments.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: Functional Land Use Guide of the Comprehensive Plan identifies this property as appropriate for local commercial development. The Comprehensive Plan does not specifically address car washes. However, the Commercial Locational Guidelines recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. As recommended for approval, the request conforms to the Land Use Guide and Commercial Locational Guidelines of the Comprehensive Plan.
5. Impact of the proposed development on community facilities: The proposed development will serve as an ancillary use to the existing convenience store immediately to the west. Therefore, additional traffic impacts are anticipated to be minimal. However, the Maize Road/Kellogg Drive intersection has been improved in the last several years and is anticipated to be sufficient to handle projected traffic increases for the foreseeable future. The site will impact the municipal water and sewer utilities and will be developed in compliance with all applicable development and environmental standards.

MOTION: To approve per staff recommendation.

HENTZEN moved, **JOHNSON** seconded the motion, and it carried (12-0).

6. **Case No.: CON2006-18** – Zoe Spangler (owner/applicant), Don Folger (agent) Request Conditional Use for personal care service (beauty and tanning salon) on property zoned “GO” General Office on property described as;

LOT 1 EXC E 10 FT FOR ST KENSLER ADD. Generally located South of Pawnee Avenue on the southwest corner of Greenfield Street and Seneca Street.

BACKGROUND: The applicant requests a Conditional Use to permit personal care service on a .43-acre “GO” zoned property, located southwest of S. Seneca and Greenfield. The application area is currently used as a single-family residence. Personal care service is a Conditional Use in the GO zoning district. The applicant submitted the attached site plan illustrating proposed changes to the site, including increased parking and screening.

The west side of Seneca in this area was originally all single-family residential, the subject property and the lot to the south were rezoned to GO. Property south of the site is used for a medical/dental office. The east side of Seneca is zoned “LC” Limited Commercial and developed with retail uses. A single-family neighborhood exists west of the site.

CASE HISTORY: The subject property was platted as Lot 1 of the Kensler Addition in 1950.

ADJACENT ZONING AND LAND USE:

NORTH:	“SF-5”	Single-family residences
SOUTH:	“GO”	Medical/dental office
EAST:	“LC”	Retail uses.
WEST:	“SF-5”	Single-family residences

PUBLIC SERVICES: The subject property has one point of access to Seneca, which is a five-lane arterial with a central turn lane, and a 100-foot right-of-way at this location. The daily traffic count for this portion of Seneca is 18,541. The *2030 Transportation Plan* recommends that this portion of Seneca remain a five-lane arterial. The existing drive, proposed to remain as is, is 65 feet south of the Seneca/Greenfield intersection, and 145 feet north of the drive to the south. This drive spacing does not meet the Access Management Guidelines. Municipal water and sewer are available to serve the subject property.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for “Urban Residential” development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

The Unified Zoning Code will require screening, parking standards, and compatibility setbacks from residential zoning. The Landscape Code will require a landscape plan if improvements on the site exceed 30% increase in floor area or 50% of the value of the existing development.

RECOMMENDATION: Staff finds that the proposed use could be more intensive than other uses permitted in the GO district. However, the size constraints of the site will keep the proposed use at a neighborhood scale. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The applicant shall submit a landscape plan, to be approved by staff, prior to building permits being issued for the site.
2. The subject property shall be developed in general conformance with the approved site plan.
3. The subject property shall be developed in conformance with all applicable codes to include but not limited to zoning, sign, building, fire, and health codes.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Commercial zoning and uses exist along the east side of Seneca. The west side of Seneca is zoned for and developed with a single-family residential neighborhood, with the exception of the application area and an office use to the south.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "GO" General Office and could be used as zoned for office uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed Conditional Use for Personal Care Service could be more traffic intensive than those uses permitted by right under GO zoning. The small size of the site will keep the proposed business at a neighborhood scale. Likewise, the screening, lighting, and compatibility standards of the Unified Zoning Code should limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Urban Residential" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
5. Impact of the proposed development on community facilities: The proposed use will cause more turning movements on this portion of Seneca, which has a center turn lane.

JESS MCNEELY Planning staff presented the staff report.

GISICK Wanted to inform the Planning Commission that he was president of the neighborhood association for this area, and that he has talked to people outside of this meeting and it has no bearing on his decision. He wanted to ensure that it had adequate screening and wanted to see anything they might have to offer on it. The neighborhood cares about the adequate screening and we are happy with this.

BISHOP Noted that there was a medical-dental office to the south, and wanted to know if the Personal Care Service would be impacted. She also wanted to note that the single-family homes along Seneca have switched, and there has been a stripping out effect. She noted that staff's recommendation for approval was contingent on the size constraints but if it were put together with what is to the south then do you think the medical-dental use is solid enough that it will be there for a long time.

MCNEELY Shared that this is not a house that was converted to an office use for the medical-dental facility to the south and wouldn't see that changing any time soon. It would be important to note that the property we are talking about is already zoned (GO) General Office, the Conditional Use just allows them to do the salon type use. They would be able to operate as an office right now.

MOTION: **GISICK** moved, **MITCHELL** seconded the motion.

MOTION CARRIED (12-0)

7. **Case No.: CON2006-19** – Mulvane State Bank c/o Frank L. Carson III Request a Conditional Use to allow bank or financial institution on property zoned "GO" General Office on property described as;

Lot 1, Block A, American Addition to Wichita, Sedgwick County, Kansas. Generally located one-block west of Oliver Avenue, on the southwest corner of Douglas Avenue and Dellrose Avenue.

BACKGROUND: The applicant is requesting a Conditional Use to allow a bank with drive through service on the 0.185-acre platted subject site (Lot 1, Block A, American Addition) zoned "GO" General Office and located at 4641 East Douglas Avenue. The subject site is currently developed with an approximately 1,375-square foot, one-story brick office building, built in the late 1960s. A bank or financial institute is an establishment engaged in deposit banking, such as a commercial bank, saving institutions or credit union and includes automated teller machines. The Unified Zoning Code (UZY) requires a Conditional Use to permit a bank or financial institute in the "GO" zoning district.

The subject site is part of the "LC" Limited Commercial and "GO" zoned development of small local retail strips and small freestanding office types of uses located around the Oliver Avenue – Douglas Avenue intersection. Abutting the west side of the subject site is a "GO" zoned brick two-story (built late 1950s) office building. Its parking lot (ownership per the City's GIS system) abuts the west and south sides of the subject site. Development east of the site, across Dellrose Avenue, is the "LC" zoned Lincoln Heights' retail strip, built in the late 1940s. Uses in this retail strip include a book store-café, a restaurant, barbershop, shoe store, salon-boutique, shoe store, cleaners, jewelry store and flower store. Development north of the site, across Douglas, includes a "GO" zoned small retail strip (built late 1980s), containing a hair salon, eyeglass store and vacant storefront, and (built late 1970s) a freestanding dental office. There is also another "LC" zoned retail strip north and east of the site, across Douglas. This strip is one of the more recent developments in the area, but is only partially occupied. Property south of the parking lot abutting the south side of the site is zoned "TF-3" Duplex residential and is developed as a brick two-story single-family residence. This residence is part of an area that is zoned predominately "SF-5" Single-family Residential and "TF-3", of mostly single-family residences with fewer, scattered duplexes and are part of the College Hill neighborhood.

The applicant submitted the attached site plan, which appears to show six (6) parking spaces, and five (5) queuing spaces for a teller's window and three (3) queuing spaces for an automated teller machine. The total number of parking spaces and queuing spaces appears to meet the UZC's required number for both. The site plan does not show the existing or proposed landscaping, signage, trash, or outside lighting.

CASE HISTORY: The property is platted as Lot 1, Block A, American Addition, which was recorded with the Register of Deeds October 21, 1968. VAC2000-00004 granted a vacation of 10-feet of the site's abutting Douglas Avenue right-of-way (ROW) to allow a handicap parking space, with the condition that the property/site record a contingent dedication of the same ROW.

ADJACENT ZONING AND LAND USE:

NORTH: "GO" "LC" Retail strips, dental office,
SOUTH: "TF-3" Single-family residence
EAST: "LC" Retail strip
WEST: "GO" Office

PUBLIC SERVICES: The subject property has access to Douglas Avenue, a paved four-lane arterial. The subject property also has access to Dellrose Avenue, a paved residential street. The nearest intersection with traffic counts (ADT) is the Douglas – Oliver (a paved four-lane arterial) Avenue's intersection, which is located one-block east of the site. ADTs at that intersection are between approximately 10,300 – 13,200 ADTs. The 2030 projected ADTs are between approximately 11,000 – 18,000 ADTs. The 2030 Transportation Plan does not change the status of Douglas or Oliver. Public Works has a concept plan for possible improvements at the Douglas – Oliver Avenues' intersection. The subject property is connected to public water and sewer. No impacts on public services are anticipated.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide of the Comprehensive Plan designates this area as appropriate for "local commercial" development. The "local commercial" category's uses are local in their customer base and include commercial, office, personal services, medical, auto repair, grocery stores, florist shops, service stations, restaurants and on a limited presence basis mini-storage warehousing and small scale light manufacturing. There is a savings and loans with a drive through window located on the northeast side of the Douglas – Oliver intersection, which is zoned "LC". Allowing another banking or financial institution, as this request is presented, would not be out of character with development in the area. The Unified Zoning Code (UZC) requires a Conditional Use to permit a bank or financial institute in the "GO" zoning district and the request as recommended for approval conforms to the adopted policies.

RECOMMENDATION: Based upon information available prior to the public hearing, Staff recommends that the request be APPROVED, subject to the following conditions:

1. The applicant shall obtain all applicable permits and be in compliance with all building, health, and zoning regulations.
2. The site shall be developed in general conformance with the approved site plan. The applicant shall also provide a revised site plan within 60 days of approval of the Conditional Use, which will provide more dimension control, showing the size of the current structure, the existing landscaping (which shall be retained), any additional landscaping, existing signage (currently monument type), proposed signage (must be monument type no larger than the current sign with lighting as it is now and materials similar to the current structure's materials), existing lighting, any proposed lighting (no taller than 14-feet and directed onto the site), retain the pipe railing around the site and clearly marked parking, showing that the site is in compliance with the parking requirements.
3. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The properties surrounding the subject property are zoned either "GO" or "LC" and are developed as small local retail strips and small free-standing office types of uses located around the Oliver Avenue – Douglas Avenue intersection. Behind these local commercial developments located along the arterial streets there is extensive predominately single-family residential development, with a few scattered duplexes.
2. The suitability of the subject property for the uses to which it has been restricted: Per the UZC, a bank or a financial institute in the "GO" zoning district is permitted as a Conditional Use. A bank or a financial institute can include automated teller machines. The current structure could continue to be used as an office or any of the other uses permitted by right in the "GO" zoning district. The restrictions for those permitted use by right on this site are related to its relative small size.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is surrounded by another property owner's parking lot on its west and south sides. Another business' parking lot on its south side provides an approximately 60-foot buffer between the site and the single-family residences to its south.
4. Conformance of the requested change to adopted or recognized Plans/Policies: This application as recommended for approval appears to comply with all plans and policies.
5. Impact of the proposed development on community facilities: The request should have a minimal impact on community facilities.

MOTION: Approve per staff recommendations.

HENTZEN moved, **JOHNSON** seconded the motion, and it carried (12-0).

8. **Case No.: CON2006-22** – U Stor Northwest Corp. (owner); T-Mobile USA c/o George Wyrick (applicant); Ferris Consulting c/o Greg Ferris (agent) Request Conditional Use for 150-foot Wireless Communication Tower on property zoned "GC" General Commercial on property described as;

A tract of land lying in and being a part of Lot 2, Pearson Farms Third Addition to Wichita, Sedgwick County, Kansas, being more particularly described as follows: Commencing at the Northwest corner of said Lot 2; thence South 88 degrees 40'28" East, along the North line of said Lot 2, a distance of 239.81 feet; thence South 00 degrees 36'35" West a distance of 151.04 feet to the point of beginning; thence South 89 degrees 23'25" East a distance of 28.00 feet; thence South 00 degrees 36'35" West a distance of 16.00 feet; thence North 89 degrees 23'25" West a distance of 28.00 feet; thence North 00 degrees 36'35" East a distance of 16.00 feet to the point of beginning. Generally located West of Maize Road and on the south side of 21st Street North.

BACKGROUND: The applicant is seeking a conditional use to permit the construction of a 150-foot monopole wireless facility for use by T-Mobile USA. The proposed site is zoned GC General Commercial and located approximately 600 feet west of Maize Road just south of 21st Street North. The application area is also located in DP-184, Pearson Farms Commercial Community Unit Plan.

The character of the surrounding area is largely commercial in nature along the 21st Street and Maize Road corridors. The vast majority of surround property is occupied with retail commercial uses, although several office, medical and church uses exist in the vicinity. Immediately north of the application area is a retail strip center zoned GC General Commercial. Across 21st Street North is the New Market Square development, which includes a car wash, Wal-Mart and many restaurants and retail shops in a mix of LC and GC zoning. The abutting property to the west is zoned LC and is developed with a nursery/garden center. The property adjacent to the south is zoned SF-5 Single-family Residential and developed with a church. Immediately east of the subject property is a medical office zoned LC Limited Commercial.

The application area (see attached site plan) is approximately 0.05 acres located within an existing U-Store self-storage facility. The site plan indicates that the proposed conditional use will utilize several of the self-storage units for storage and screening of necessary equipment. The site is well screened from surrounding properties, as the U-Store facility has a masonry/metal-screening wall on three sides. The application area is screened from 21st Street North by a retail strip center. As such, the recommendation includes no additional screening provisions.

The applicant has submitted a letter of intent (attached) from a second carrier (Alltel), which would collocate upon approval of the conditional use request and completion of the facility.

CASE HISTORY: The application area is located within Lot 3 of Pearson Farms 3rd Addition recorded January 13, 1993. The application is also in Parcel 3 of the Pearson Farms Commercial Community Unit Plan (DP-184). This application was originally submitted as an administrative permit (BZA2005-00063) and has been resubmitted as the current application at the request of the Planning Director. The subject parcel was rezoned from AA One Family Residential to LC Limited Commercial on April 26, 1988. Subsequently, a rezoning to the current GC General Commercial district was approved on October 13, 1992.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Retail
SOUTH:	GC; SF-5	Warehouse, self-storage; Church
EAST:	LC	Medical Office
WEST:	GC; LC	Warehouse, self-storage; Lawn and Garden Center

PUBLIC SERVICES: No municipally supplied public services are required. The site has access to 21st Street through the U-Store facility. 21st Street is a five-lane principal arterial with a traffic count of approximately 14,400 vehicles daily.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) not use strobe lighting.

RECOMMENDATION: Planning staff finds that the proposed wireless communication facility conforms to the guidelines of the Wireless Communication Master Plan. Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the following conditions:

- All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.

- C. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall be no greater than 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least three wireless service providers.
- E. The monopole and its foundation shall be designed and constructed in such a manner that permits future height extensions to 180 feet in height and future loading expansions to accommodate communication equipment for at least five wireless service providers, provided the FAA would approve such an extension.
- F. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- G. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- H. DP-184 shall be revised to include "one wireless communication facility" as an allowable use on Parcel 3.
- I. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The character of the surrounding area is largely commercial in nature along the 21st Street and Maize Road corridors. Immediately north of the application area is a retail strip center zoned GC General Commercial. Across 21st Street North is the New Market Square development, which includes a car wash, Wal-Mart and many restaurants and retail shops in a mix of LC and GC zoning. The abutting property to the west is zoned LC and is developed with a nursery/garden center. The property adjacent to the south is zoned SF-5 Single-family Residential and developed with a church. Immediately east of the subject property is a medical office zoned LC Limited Commercial.
- 2. The suitability of the subject property for the uses to which it has been restricted: The request would be eligible for the administrative approval process absent its location in a Community Unit Plan. Given the commercial nature of the subject property and the proposal's minimal impact on public infrastructure, the property appears to be suitable for the proposed use.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: There will be visual impacts upon surrounding properties. However, the impacts will be minimized by the extent of the existing screening. As recommended, no other negative impacts are anticipated.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility conforms to the Location Guidelines of the Wireless Communication Master Plan. As recommended for approval, the proposed wireless communication facility conforms to the Design Guidelines of the Wireless Communication Master Plan.
- 5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed monopole does not detrimentally impact the operation of airports in the vicinity. No negative impacts on other community facilities are anticipated.

SCOTT DUNAKY Planning staff presented the staff report.

ALDRICH Wanted to know the footage between the fence and the existing building.

DUNAKY It is noted as 28 feet, but you may want to ask the applicant that.

ALDRICH Asked if there were any requirements that it be within an area equal to a hundred feet.

DUNAKY Replied only if the adjacent zoning were residential in nature.

ALDRICH Asked if that would not apply to this.

DUNAKY Yes.

GREGG FERRIS Agent representing T-Mobile USA. Also present is George Wyrick, site acquisition manager for Oklahoma, Kansas, and Arkansas. This is a site T-Mobile has been looking at for a number of months. The staff report will say we originally applied as an administrative permit because of this being zoned General Commercial. Staff chose not to approve this item because it was in a Community Unit Plan, therefore we are here today to ask for a Conditional Use Permit, and we have no problem with that. I would like to correct one thing. I usually don't go out two miles. I usually go out only a mile and a half because staff requires a mile. If you will look at the corner of Central and Maize road there is also a tower that exists today. T-Mobile is also located on that tower, so it would not be suitable for co-location. The only tower in this area that T-Mobile is not currently one is the one noted at the AT & T Tower that is now housed by Alltel. This is the process gone through when looking for a site. T-Mobile will send a circle on a map of where we need to build a tower and I will look within that circle first for an existing tower. T-Mobile's preference is to go on an existing tower. It is the most inexpensive way that they can construct a wireless facility to go on an existing tower. They have agreements in place with all of the other carriers. If it is owned by a tower company; they have agreements with many of those as well. So that is a first choice to find a tower, however that was not in the area but close. We evaluated and looked to see if it would meet any of the coverage requirements. The only coverage that happens from that tower is on the area where there is nothing there. There is no house, no new development that can occur there. It is all floodplain. That tower, which I also did many years

ago, is at its maximum height. The FAA would only allow 90-foot towers there. It cannot be extended; we cannot go any higher to get any additional coverage. The next thing we looked for were existing buildings; to see if there were any tall enough buildings, the tallest building would probably be parapet, which is 35 feet, which accomplishes very little coverage. Next we look for a place to build a tower. That is the last alternative. We go to the zoning map to see if there is anything zoned General Commercial, if not I then look for Light Commercial. Then the last resort we try to find is some General Office or residential zoning. We found this ground zoned General Commercial and negotiated a lease. It was an appropriate site. Since I do the site acquisition and the zoning I always compare any site I evaluate to the wireless master plan to see if we have any compliance issues. If you see noted in the letter, this complies about as much as any raw land can comply with the "Wireless Master Plan." This site is screened, very well screened. They are surrounded on all four sides by new buildings as well as the masonry wall. It is zoned General Commercial; it is a mixed-use area. It is as far away from a residential piece of property as you can get in this area and still be in the appropriate zoning. It is going to be a monopoly. Alltel is choosing to go in this tower as well. We have met the criteria of the "Wireless Master Plan." I believe staff has identified everything correctly, and we concur with their findings and believe that this site should be approved.

MITCHELL Asked if there was any objection to Item E.

FERRIS Replied that he had no objection; we don't believe it is necessary. A 150-foot tower is the height being built in communities this day and age. A lot of neighbors get real nervous when you say 180-foot because they assume that is going to happen. We do not have a problem if you want to recommend that. What I have seen happen in most communities is that if it is under 150-foot, they make you make it extendable, and if it is 150 or more they don't make it extendable. This is a call for the Planning Commission.

MITCHELL Would they go about doing that once the pole is there.

FERRIS The way it is written we will engineer a pole for 180 feet tall, which means the foundation, will be stronger. The base of the pole will be slightly larger. We will have a pole that has an expandable base. Poles are different when you reach the maximum height. There will be a pole that slides down and bolts in so that extension can be added on to the top. A 150-foot pole comes in three pieces. We would make it so that a fourth piece could be added. In the engineering, we would have to show, when we apply for a building permit that the engineering has been done for the foundation and the pole. We would still just build a 150-foot pole.

HILLMAN Wanted to know how many future carriers would this potentially hold.

FERRIS It would hold five carriers.

JIM DENNING 10707 West 21st Street North, Wichita, 67205 We have a business adjacent and to the west of the applicant's property. I have lived in the area for 15 years. I have never had a problem receiving a strong signal. Unbeknown to him, we apparently had a spokesman who told a neighboring business that he was aware of 150-foot cell tower application and had no objection. Today, I would like to speak for myself. My comments will address factors that the MAPC uses in deciding on recommendations. If you look at a zoning map of the area, the single C Commercial parcel of the applicant seems to be an anomaly there. The reason is this, in the beginning all the lots were zone LC, which is a great deal difference from C, and they had a CUP. The applicant's present storage facility could have been built under LC except for the outdoor storage use that was requested. After a lot of meetings and compromises, the applicant was granted the zone change from LC to C to accommodate the small outdoor storage use area hidden at the south end of the parcel. This compromise was reached because LC neighbors felt the original LC zoning and CUP character was left in tact. The businesses in the neighborhood have already complied with the LC zoning and CUP and the desired results are obvious. We feel that a 150-foot tall, or 180-foot tall cell phone tower would be detrimental to that investment and effort. If the cell tower were allowed the character of the LC neighborhood would have jumped two steps away from LC. We feel that no parcel is an island. Our LC neighborhood shares special taxes, water runoff expenses, and others because we all benefit from them. A 150-foot tall cell phone tower benefits monetarily only that one parcel owner while the remaining owners must bear the imposition of the tower. We feel it is not possible to obscure in any real way a 150-foot tall cell tower. We respectfully ask that you deny this request. Light Commercial is what everybody else is. There is one commercial and that was granted because of the small outdoor storage area that is well hidden and did not effect the character of the neighborhood. If we can obscure a 150 or 180-foot pole cell phone tower with wall that are 6' feet tall and buildings that would be a good accomplishment and I would go with that. I think it will drastically impact the LC that we have established in the neighborhood.

HENTZEN Asked if the business was west of this location? What is the name of your business?

DENNING Denning's Greenhouse & Garden Center.

ALDRICH Followed up with the question of how it would be detrimental to that business.

DENNING Stated that they all established their business under the LC and the CUP requirements. The signs can't be higher than 15 or 20 feet at the very most. The difference between that which we all worked toward, and a cell phone tower that's about 190-foot from the main artery that supplies us all with traffic. It is a character difference, a huge character difference.

MARNELL Asked if the Commission was to approve this, if he had an opinion on 150-foot vs. 180-foot.

DENNING Shared that he had an opinion on the 150 and a stronger one on the 180-foot.

BARRY REYNOLDS Representing New Medical Health, 10525 West 21st immediately next door to the proposed site. He asked that they call up the photograph if possible. Looking at the east side of the facility, from the west side, we are not more than 65 feet away from the proposed site. The visual impact of this photo suggests that we are quite a ways away and it is not going to be such a nuisance in terms of the location. Looking at it from the other side of the building, the affect is much more dramatic, we are much closer to the proposed site. Two of the three property owners within the notification area and several business not in the area one including Denning's Greenhouse & garden Center, but two that were in the notification area included New Medical Health Care as

well as the Prescott Center immediately north of the proposed site oppose it, and should be taken into consideration today. I spoke to Jeff Walenta he had spoken with his father who owns the center, the reason for that, they have a > whole foods who occupies the biggest part of the Prescott Center, that tenant is very upset with the proposal. They feel it would be detrimental to the business being that close to it, the owners of the Prescott Center do not want this approved either. Two of the three who received notices do oppose it. We don't oppose progress; we oppose the placement of this particular tower. Is there a need I am sure that there is but if this were being located elsewhere, I think that it is. In terms of the justification from the perspective of New Medical Health Care and indeed Whole food as to why we oppose it and how it would be detrimental to our business there is a perception regarding cell phone use, the mother ship of cell phone use or cell phone towers. If a clinic is located within 65 feet of a cell phone tower, and a whole food store almost that close to it, the customers and patients of those businesses will wonder why the business that they choose to seek for health care needs are that close to what they perceive a potential health care risk. There is a real potential impact regarding both businesses, one being the largest, the Prescott and ours being immediately next door, which is a very active family practice clinic. On those grounds we do oppose it, we don't oppose it in principle, we just think it needs to be located elsewhere.

GREGG LAKIN Physician/owner immediately to the east, New Medical Health Care. We purchased the facility three years ago; it was originally the only building in that area. It was built by Hertzler Clinic and was a family practice clinic then. Via Christ owned it and ran it as an urgent care clinic for several years. We now have it where we do pediatrics. We have pediatric, family practice and immediate care at that facility. As Mr. Reynolds said earlier, the pictures were somewhat deceptive. From my office window it is 25 or 30 yards away. I am looking at the side of this tower that is not protected by any walls. There is a chain link fence between this and my view, and I am looking at the base of the cell tower. I have talked to tenants at the Prescott Center in regards to power surges, power spikes, and radio interference. I know from our clinic we depend on a lot of instruments to tell us a person's condition. EKG machines are greatly interfered with by radio interference. We have concerns that were never addressed because we have never been contacted directly by the group that wants to put in this tower again. The only way I found out about this was from my office window looking at gentlemen painting in orange spots on where this is proposed to go. The location besides being an eyesore and being right behind the Prescott Center 28 feet is also very close to 21st Street, and I don't understand that with all the open land in that area why something would go be that close to 21st Street. I can stand on the corner of our property, look around, and see three other cell towers from all Star Sports, 229th Avenue North and off to the west. I am not convinced that this is an essential location for this type of development surrounded by light commercial.

HILLMAN Wished to know what they would propose, what type of metal screening or metallic grid work. What would you propose to shield your equipment?

LAKIN Replied that he didn't know that you could shield equipment. The radiation or interference would come from the top of the tower. I don't know why it wouldn't be further from 21st, further away from the family practice clinic. There are so many options than what is being proposed.

FERRIS To address a few if the issues, I can assure you that T-Mobile would not locate a tower in this area if they did not need it. The investment in this tower is somewhere between \$350 and \$550 thousand dollars depending on how many radios. There is no way they are going to consider this site if they don't need it. The gentleman was correct, you can see other towers in the area, and they are there, we would not be looking at this if it were not needed. We are here because it is zoned General Commercial but it does not allow a tower by right, a conditional use is required in any LC, and when we do 150-foot towers in LC zoning throughout the City, and have done it throughout the City. The property across the street, directly across the street is also zoned General Commercial. We felt it did not have the appropriate screening that the code asked for and it was not pursued as far as a location. This is not the only piece of General Commercial in the area. There has been no nexus shown in any studies, or correlations between property values and existing cell towers. Cell towers do not have a negative impact on property value. No one has been able to show any proof of that whatsoever in any studies. This has been attempted on many occasions. It is not just this property owner that benefits from this tower. Understand when we construct a tower we do it for the citizens that use the service. T-Mobile has a new process. The reason they build towers in areas is that is where the customers are demanding service. Alltel is the same way. You have two carriers that need service in this area. There is a benefit to the community. It is now a requirement by the federal commission that all towers are 911 enabled. That if someone is within the area, and uses a cell phone that they can be located by the parameters between towers. The closer the towers the more the parameters indicate they can locate on those. This is not just a service for profit. Obviously they need the site or they would not have invested that kind of money; it does have a purpose for the community. Imagine the conversation when the first telephone poles went up along side the roadway. Eyesores, how horrible and now we don't even notice they are there. Eventually cell towers are going to replace those telephone poles because that is the technology that is the preference of many people. As technology increases so is the demand. To address the medical facility, the medical use has a concern that the radio frequency may impact some of their equipment. Had I know that this was going to be an issue, just so you know planning commissions are not allowed to consider radio frequency in their discussions for cell towers. It is a federal rule. Mr. Lang can document this. However, I am willing to discuss this. You will see something very interesting. I would suspect there is a microwave inside that clinic or maybe inside that health food store and if you look at the results, a baby monitor and a microwave oven actually put out more RF emissions than a cell phone tower. It does not sound possible, but that is the truth, and the reason that is the truth is these are very low frequency emissions that come from a radio tower. They will not impact anything they're doing in that facility. Those are the old days of analogue when everybody was afraid of the analogue frequency, but now they have gone to the digital frequencies. The RF emissions absolutely do not impact anything. Not only do they not impact, the FCC can revoke the license of T-Mobile in the entire City of Wichita if the towers interfere with any equipment, or other radio service or anything like that. They can revoke the entire license for the City of Wichita. You can see this is not a small thing; it is not taken lightly. It will not impact in a negative way. The visual image is not very attractive but the reason we selected this location is that the wireless plan tells us not to worry about commercial property but residential property. This spot is the furthest you can get from a residential property and still be on this side of the building. It is also selected because it is shielded by the walls. It is also shielded by the storage unit buildings that are taller than 8 feet, and is the spot that shields the base of the tower, which is seen. You cannot shield a 150 or a 120-foot tower, except if you have trees that tall but the towers will not work. You can shield as part of the code requirement and that is what we are supposed to do.

HENTZEN Asked about Item E. If we accept the recommendation and object to the 180-foot extension, can you still meet the wireless service providers?

FERRIS Yes we can and I would recommend that that should be the policy of the Planning Commission for towers that are a 150-foot and greater, and this is my personal opinion.

BISHOP Wanted asked about Item D. It says "the support structure shall be no greater than 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least three wireless service providers", you just mentioned five.

FERRIS Right I am sorry, staff required 180-foot and five. I would recommend that you change it to 150-foot and five.

BISHOP So the question you answered from Mr. Hentzen was that you could accommodate five at 150.

FERRIS Correct, you have one at 150, 140, 130, 120, 110, and one at 100. You have to make sure that the pole ordered has the structural ability to handle five carriers.

BISHOP On E go to five.

FERRIS No, he would recommend that as well.

LANG Provided legal advice before the final vote. It has been addressed but the record should be clear. Because of the issue of radio frequency has been entered into the record here. As Mr. Ferris states you are prohibited from considering that one way or the other. By adopting staff findings, we can make an argument that you did not consider it. The FCC controls the radio frequency issue, and there is an absolute prohibition against the Commission or the City Council to consider that type of evidence.

MOTION: Approve application by eliminating Item E, and changing requirement D to carry five instead of three.

MITCHELL moved **ALDRICH** seconded the motion, and it carried (12-0).

9. Other matters/adjournment.

SCHLEGEL informed Planning Commissioner about the APA Audio Conference.

The Metropolitan Area Planning Department informally adjourned at 3:06 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2006.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)